



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

NOV 27 2013

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-133

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Roger Healy
Chief Engineer
Alaska Department of Transportation & Public Facilities
Division of Design & Engineering Services
3132 Channel Drive
P.O. Box 112500
Juneau, Alaska 99811-2500

Re: United States of America v. State of Alaska, Department of Transportation and Public Facilities
Consent Decree (Consent Decree), Civil Action No. 3:10-cv-00115-JWS
Demand for Payment of Stipulated Penalties

Dear Mr. Healy:

On September 21, 2010, EPA and the State of Alaska, Department of Transportation and Public Facilities (DOT&PF) entered into the above-mentioned Consent Decree to resolve alleged violations of the Clean Water Act, including failure to comply with a Federal Storm Water Construction General Permit, and discharging dredged or fill material and/or controlling and directing the discharge of dredged or fill material into waters of the United States at 10 sites located on the Kenai Peninsula, Alaska, without authorization through the United States Army Corps of Engineers.

The Consent Decree requires DOT&PF to fulfill specific training for staff/contractors, construction and Stormwater Pollution Prevention Plan requirements, inspection program requirements, project maintenance requirements, and reporting requirements. Paragraph 9.c of the Consent Decree requires DOT&PF to include a worksheet in its Annual Report in which DOT&PF self-identifies all instances of non-compliance with the Consent Decree. DOT&PF's agreement to utilize its best efforts to obtain sufficient funding through the State of Alaska budgetary process to fulfill its obligations under the Consent Decree is listed in Paragraph 21 of the Consent Decree, and Paragraph 52 of the Consent Decree details the stipulated penalties for each instance of noncompliance with the Consent Decree.

EPA appreciates your attention to the terms and requirements of the Consent Decree. Within its 2010, 2011, and 2012 Annual Reports, DOT&PF self-identified 792 instances of noncompliance with the Consent Decree. In accordance with Section X (Stipulated Penalties) of the Consent Decree, EPA is formally demanding that DOT&PF pay \$445,000, for stipulated penalties accrued through December 31, 2012. The attachment to this letter details how the penalty was calculated.

If DOT&PF believes the amount assessed is incorrect, DOT&PF may invoke the dispute resolution procedures under Section XI of the Consent Decree. The penalty calculations are based upon the information collected and submitted by DOT&PF. As part of your statement of matters in dispute, please include the line item or line items of Attachment 1 which DOT&PF wishes to dispute, and DOT&PF's reasons for believing the assessed amount is incorrect.

In accordance with Section X, Paragraph 52, all penalties which are not in dispute are due and payable to the United States within 30 days of the appropriation addressed in Section VII (Obligation Subject to Appropriation) of the Consent Decree.

For written notification or communication under Paragraph 35 of the Consent Decree, please use the following individuals as to the United States:

For DOJ:

Chief, Environmental Defense Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 23986
Washington, D.C. 20026-3986
Ph: 202.514.2219
Fax: 202.514.8865

Mark A. Nitczynski, Attorney
U.S. Department of Justice
1961 Stout Street – 8th Floor
Denver, CO 80294
mark.nitczynski@usdoj.gov
Ph: 303.844.1498
Fax: 303.844.1350

Chief, Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Ph: 202.514.5271
Fax: 202.514.0097

Kathryn C. Macdonald, Attorney
U.S. Department of Justice
P.O. Box 7611
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kathryn.macdonald@usdoj.gov
Ph: 202.353.7397
Fax: 202.514.0097

For EPA:

Chris Bellovary
Assistant Regional Counsel
U.S. EPA, Region 10
1200 6th Ave, Suite 900 (ORC-158)
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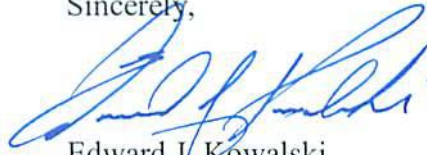
Steven Potokar
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Mark Jen
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Federal Building Room 537
222 West 7th Avenue #19
Anchorage, Alaska 99513
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Fax: 907.271.3424

Should you have any questions regarding this letter, you may reach me at (206) 553-6695, or have your counsel contact Chris Bellovary, Assistant Regional Counsel, at (206) 553-2723. Thank you.

Sincerely,



Edward J. Kowalski
Director

Enclosure

cc w/enc: Kristine Benson, Alaska DOT&PF
Annei Goldsmith, Alaska Dept. of Law
Kathryn Macdonald, U.S. Dept. of Justice

Attachment 1

Section III Compliance Program

Paragraph	Description	Stipulated Penalty	Number of Penalties	Total
5a	Training for DOT&PF	\$750.00	11	\$8,250.00
6a2	PE SWPPP Certification	\$750.00	9	\$6,750.00
6a3	SWPPP Amendments	\$750.00	31	\$23,250.00
6a4	SWPPP Availability	\$750.00	1	\$750.00
6b	BMP Manual Citation	\$250.00	142	\$35,500.00
6c	Seasonal Stabilization	\$5,000.00	1	\$5,000.00
7a	Preconstruction Inspection	\$2,000.00	2	\$4,000.00
7b	Inspection Frequency	\$750.00	89	\$66,750.00
7c	Inspection Reports	\$750.00	2	\$1,500.00
7c1	Date on Inspection Report	\$750.00	4	\$3,000.00
7c2	Inspector Qualifications	\$750.00	3	\$2,250.00
7c3	Scope of Inspection	\$750.00	8	\$6,000.00
7c4	Weather and Discharges Since Last Inspection	\$750.00	79	\$59,250.00
7c5	Weather and Discharges During Inspection	\$750.00	2	\$1,500.00
7c7	Location of BMPs - Maintenance	\$750.00	17	\$12,750.00
7c9	Location of Additional BMPs	\$750.00	6	\$4,500.00
7c10	BMP Action Items and Complete-by Date	\$750.00	69	\$51,750.00
7c11	Certification of the Inspection	\$750.00	53	\$39,750.00
8a	Completion of BMP Action Items by Date	\$500.00	215	\$107,500.00
9a	Endangerment Reports	\$750.00	5	\$3,750.00
9b	NOI Submission	\$250.00	5	\$1,250.00
Total				\$445,000.00